

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MELODY MILLER, and)
SANDRA MILLER)
)
Plaintiffs,)
)
v.) Case No. 3:20-cv-1226
)
THE UNITED STATES OF AMERICA,)
)
Defendant.)

COMPLAINT

JURISDICTION

Jurisdiction lies pursuant to 28 U.S.C. §1346(b)(1) as this is a tort claim against the United States under the Federal Tort Claims Act, Title 28 U.S.C. 2674. The administrative exhaustion requirement of the Federal Tort Claims Act has been satisfied pursuant to 28 U.S.C. § 2401(b) as this claim was timely presented to the United States Department of Health and Human Services.

COUNT I

(Melody Miller - Negligence v. United States of America)

Comes Now Plaintiff, Melody Miller, by and through her attorney, **KEEFE, KEEFE & UNSELL, P.C.**, and for Count I of her Complaint against Defendant UNITED STATES OF AMERICA, states:

1. That at all times mentioned herein, Southern Illinois Healthcare Foundation, Inc. was a not-for-profit corporation and health care provider operating throughout southern Illinois, including Alton Women's Health Center, a health care provider, and both Southern Illinois Healthcare Foundation, Inc. and Alton Women's Health Center were deemed employees of the United States Public Health Service in accordance with 42 U.S.C. § 233(g).

2. That at all times mentioned herein, Olamide Kolade, M.D., was a medical doctor specializing in Obstetrics/Gynecology, licensed and practicing in the State of Illinois and was an agent of Southern Illinois Healthcare Foundation, Inc. and Alton Women's Health Center, and was a deemed employee of the United States Public Health Service in accordance with 42 U.S.C. § 233(g).

3. That at all times herein mentioned, the plaintiff, Sandra Miller, was the lawful wedded wife of plaintiff Melody Miller.

4. That the Defendant, individually and by and through its agents, servants, apparent agents, and employees was guilty of one or more of the following negligent acts and omissions:

- a) Negligently and carelessly performed a vaginal hysterectomy, in that, he created a rectal fistula;
- b) Negligently and carelessly performed a hysterectomy that was not medically necessary.

5. That as a direct and proximate result of one or more of the foregoing negligent acts and/or omissions on the part of Defendant as aforesaid, Melody Miller has suffered permanent injury, pain, mental anguish, disability, disfigurement, loss of enjoyment of a normal life; has been prevented from participating in her usual activities and duties, has incurred large sums of money in hospital, medical, and related expenses, and will incur additional sums in the future, all to her damage in a substantial amount.

WHEREFORE, Plaintiff demands judgment against Defendant in an amount greater than SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus costs.

COUNT II

(Sandra Miller - Loss of Consortium v. United States of America)

Comes Now Plaintiff, Sandra Miller, by and through her attorney, **KEEFE, KEEFE & UNSELL, P.C.**, and for Count II of her Complaint against Defendant UNITED STATES OF AMERICA, states:

1. - 4. Plaintiff hereby adopts and incorporates the allegations of paragraphs 1 through 4 of Count I of her Complaint as and for paragraphs 1 through and including 4 of Count II of her Complaint.

5. That as a direct and proximate result of the negligent acts or omission on the part of the defendants as aforesaid, and the injuries and damages suffered by Melody Miller, plaintiff Sandra Miller has suffered permanent damages in that she has incurred and become liable for large sums of money in hospital, medical and related expenses, and will become liable for additional sums in the future, and has been permanently deprived of the love, companionship, consortium, and support of her wife.

WHEREFORE, plaintiff demands judgment against defendant in an amount greater than SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus costs.

/s/SAMANTHA S. UNSELL
Samantha S. Unsell
IL REG NO. 6298752
Attorney for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2020, I electronically filed Complaint with the Clerk of Court using the CM/ECF system.

Respectfully submitted,

/s/Samantha S. Unsell
SAMANTHA S. UNSELL
Ill. Reg. No. 6298752
Attorney for Plaintiffs

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